



## Austria

### Country Reports on Human Rights Practices - [2002](#)

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Austria is a multiparty parliamentary democracy in which constitutional power is shared between the popularly elected President and the 183-member Parliament. Citizens choose their President and representatives in periodic, free, and fair multiparty elections. In 1998 President Thomas Klestil of the Austrian People's Party (OVP) was elected to a 6-year term. In parliamentary elections in November, the OVP received a plurality and began negotiations with the other parties to form a government. The judiciary is independent.

The civilian authorities were subject to the effective control of the executive and judicial authorities. The national police maintain internal security, and the army was responsible for external security. The police were well trained and disciplined; however, there were reports that police committed some human rights abuses.

The country's highly developed, market-based economy, with its mix of technologically advanced industry, modern agriculture, and tourism, affords the approximately 8.1 million citizens a high standard of living. The per capita gross national product (GDP) was \$23,328 in 2001. GDP grew by approximately 1 percent during the year; there were no serious inequalities in the distribution of income.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were some reports of abuse by police, which involved occasional beatings but mainly involved verbal abuse, threats, and harassment. Foreign observers criticized the strict application of slander laws as detrimental to press reporting. There was some governmental and societal discrimination against members of some nonrecognized religious groups, particularly those considered to be sects. Violence against women was a problem, which the Government took steps to address. Interior Ministry statistics for the year showed a similar number of neo-National Socialist, rightwing extremist, and xenophobic incidents as the previous year. Trafficking in women for prostitution remained a problem, which the Government took steps to combat. Austria was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

## RESPECT FOR HUMAN RIGHTS

### Section 1. Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

In May 1999, an unsuccessful Nigerian asylum applicant died while being deported; his hands and feet were cuffed and his mouth was taped shut to control his violent behavior. The three police officers involved in the death were given suspended 8-month sentences for negligence in the death of a person under dangerous circumstances (see Section 2.d.).

The request by the Justice Ministry for the extradition of terrorist Illich Ramirez Sanchez (alias "Carlos the Jackal") from France has been pending since 1994. Sanchez is wanted on charges of manslaughter, kidnaping, and blackmail in connection with the terrorist attacks at the Organization of Petroleum Exporting Countries' (OPEC's) headquarters in Vienna in December 1975. During the year, there was no progress in efforts to secure Sanchez's extradition.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, there were occasional reports that at times police beat and otherwise abused persons. Government statistics for 2001 showed 1,174 complaints against federal police officials; of those, 1,158 were dropped. One officer was convicted of using unjustified force; 74 cases were pending at year's end. Types of abuse ranged from slander to kicking and hitting, which resulted mainly in bruising. Some of the violence appeared to be racially motivated. An Interior Ministry survey conducted in 2000 on the "ethics of police conduct" revealed that half of the 2,000 policemen interviewed stated that they would not report their colleagues in cases of misconduct.

Nongovernmental organizations (NGOs) and other groups continued to criticize the police for targeting minorities. In 2001 the European Commission Against Racism and Tolerance released a report that was critical of police treatment of black Africans (see Section 5). During the year, the Interior Ministry's racial sensitivity training programs for police and other officials continued to be conducted with NGO assistance (see Section 5).

In 1999 the Interior Ministry created a committee to ensure that the police and gendarmerie respected human rights while carrying out their duties. Since its founding, the committee has issued 6 reports, including 222 recommendations regarding the improvement of human rights in the country (see Section 2.d.). The Government adopted many of the Committee's recommendations; for example, the publication of the Committee's report on deportation led to a reform of the Government's deportation procedures.

In March U.N. authorities detained a U.N. peacekeeper serving in Kosovo for beating and threatening to kill a man in police custody in Kosovo. The suspect was accused of hitting an Albanian detainee in the stomach and forcing him to dig a hole for his grave. After the incident, a public prosecutor in Kosovo applied to have the suspect's immunity lifted. Before a decision could be made and before the case could be investigated, the suspect was repatriated to Austria for health reasons. Subsequently, his immunity was lifted, and the Government of Kosovo has requested the suspect's extradition back to Kosovo for trial. The U.N. Special Representative of the Secretary General for Kosovo, Michael Steiner, heavily criticized the Government for its intervention. The Government was investigating the case at year's end.

Prison conditions generally met international standards, and the Government permitted visits by independent human rights observers. Male and female prisoners were held separately, as were adults and juveniles. Pretrial detainees were held separately from convicted criminals. The Government permits prison visits by independent human rights observers.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, and the Government generally respected these prohibitions.

In criminal cases, the law provides for investigative or pretrial detention for up to 48 hours; an investigative judge may decide within that period to grant a prosecution request for detention of up to 2 years pending completion of an investigation. The grounds required for such investigative detention are specified in the law, as are conditions for bail. The investigative judge is required to periodically evaluate an investigative detention. There is a system of bail.

The law prohibits forced exile, and the Government does not employ it.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respects this provision in practice.

The Constitution provides that judges are independent in the exercise of their judicial office. Judges cannot be removed from office or transferred against their will. There are local, regional, and higher regional courts, as well as the Supreme Court as the court of highest instance. While the Supreme Court was the court of highest instance

for the judiciary, the Administrative Court acted as the supervisory body over the administrative branch, and the Constitutional Court presided over constitutional issues.

The Constitution provides for the right to a fair trial and an independent judiciary generally enforced this right. The system of judicial review provides for extensive possibilities for appeal. Trials must be public and must be conducted orally. Persons charged with criminal offenses were considered innocent until proven guilty.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, the Government generally respected these prohibitions in practice, and violations were subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, and the Government generally respected these rights in practice; however, the strict application of slander laws tend to discourage reports of police brutality, and foreign observers--including the European Court of Human Rights--criticized the use of libel procedures to protect politicians, which they argue hampered freedom of speech and the press. For example, since 1986 Joerg Haider, Governor of Carinthia and former Freedom Party (FPO) national leader, engaged in over 350 libel suits against media outlets and individuals. A conviction for libel by a criminal court cannot be appealed to the Supreme Court. Publications may be removed from circulation if they violate legal provisions concerning morality or public security, but such cases were extremely rare.

In 2000 several FPO politicians were accused of paying police officers to obtain confidential information in order to discredit opponents of the FPO. In September former FPO Trade Unionist Joseph Kleindienst and former Vienna FPO Secretary Michael Kreissl both received suspended sentences of 6 months each. Kreissl appealed the decision. Critics claimed that justice authorities did not actively pursue the investigation due to the involvement of politicians connected with the Government.

The small print media consisted of 16 daily newspapers, 6 of which received special subsidies from the Government. One company Newsgroup controlled 55 percent of the market in daily newspapers and 70 percent of the magazine market. This market concentration has led to complaints of a print media monopoly. The country's largest daily newspaper also owned shares in private nationwide radio stations. All newspapers were independent. There were 50 commercial and 12 noncommercial radio stations. By year's end, 75.5 percent of citizens listened to radio stations operated by the state-owned public broadcasting system, and 19.9 percent listened to private stations. In August 2001, Parliament passed the Private TV Act and the Austrian Broadcasting Corporation (ORF) Reform Act. These acts established a new media regulatory body known as KOMM Austria to prepare for the introduction of private television stations. The first private cable station, ATV, went on the air in January 2000. It held a market share of approximately 4 percent. The new legislation requires private broadcasters to lease transmitter stations from ORF, although it does not specify the price of the lease or the time frame for concluding a leasing agreement. Private broadcasters criticized ORF for hindering the private television market by not concluding such leases.

Access to the Internet was unrestricted.

The Government did not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice. However, the Law on the Formation of Associations states that permission to form an organization may be denied if it is apparent that the organization would pursue the illegal activities of a prohibited organization, such as Nazi organizations; there were no such denials during the year.

Regular peaceful demonstrations against the OVP/FPO Government continued throughout the year.

### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

Religious organizations may be divided into three different legal categories (listed in descending order of status): Officially recognized religious societies, religious confessional communities, and associations. Religious recognition under the law has wide-ranging implications, such as the authority to participate in the mandatory church contributions programs, which can be legally enforced; to engage in religious education; and to bring in religious workers to act as ministers, missionaries, or teachers. Under the law, religious societies have "public corporation" status. This status permits religious societies to engage in a number of public or quasi-public activities that are denied to other religious organizations. The Constitution singles out religious societies for special recognition.

The Roman Catholic Church was the predominant church in the country. Approximately 78 percent of the population belonged to this church. There were 11 other officially recognized religions. The law also allows nonrecognized religious groups to seek official status as confessional communities without the fiscal and educational privileges available to recognized religions. Confessional communities must have at least 300 members, and once they are recognized officially as such by the Government, they have juridical standing, which permits them to engage in such activities as purchasing real estate in their own names and contracting for goods and services. A religious organization that seeks to obtain this status is subject to a 6-month waiting period from the time of application to the Ministry of Education and Culture. The law also sets out additional criteria for eventual recognition such as a 20-year period of existence as a religious society, at least 10 of which must be as a group organized as a confessional community and membership equaling at least two one-thousandths of the country's population. Many religious groups and independent congregations did not meet the 300-member threshold for registration as a confessional community.

There were 11 religious groups that have constituted themselves as confessional communities according to the law. After initially filing for confessional community status, the Church of Scientology and the Hindu Mandir Association withdrew their applications in 1998. A decision on the application of the Sahaja Yoga group was pending before the Constitutional Court at year's end. Numerous religious groups not recognized by the State, as well as some religious law experts, dismiss the purported benefits of obtaining status under the law and have complained that the law's additional criteria for recognition obstruct claims to recognition and formalize a second-class status for nonrecognized groups. Experts have questioned the law's constitutionality.

In 2001 Jehovah's Witnesses filed an appeal with the Administrative Court, arguing that the 10-year period of existence required under the law to be recognized as a religious group is illegal on administrative grounds. In 1998 they also filed a complaint with the European Court for Human Rights, arguing that the group had not been granted full status as a religious entity under the law, despite having made numerous attempts for more than 2 decades. Decisions in both cases remained pending at year's end.

Religious organizations that do not qualify for either religious society or confessional community status may apply to become associations. This status is granted relatively freely.

The Government continued its information campaign against unrecognized religious sects that it considered potentially harmful to the interests of individuals and society, although the Ministry for Social Security and Generations was no longer issuing its brochure on nonrecognized religious groups. The Federal Office on Sects continued to collect and make available information on organizations considered sects. Under the law, this office has independent status, but its head is appointed and supervised by the Minister for Social Security and Generations.

In March the Catholic Diocese of Linz, in conjunction with the provincial government of Upper Austria, publicly distributed a CD-ROM entitled "The Search for Meaning: An Orientation Guide to Organizations that Offer the Solution," which contained a strong endorsement by the Deputy Governor of the province. The information also was available on their website. It included information on a wide range of recognized and unrecognized religions ranging from the Roman Catholic Church to the Church of Scientology. It also contained criticism of recognized religions such as the Church of Latter Day Saints and religious associations such as Jehovah's Witnesses. It was criticized by unrecognized religious groups who found it derogatory and offensive to be associated with Satanic cults; the CD-ROM included a testimonial from a former member of Jehovah's Witnesses.

The Governor of Carinthia, Joerg Haider, repeatedly made intolerant and anti-Semitic statements, including verbal attacks against the head of the Jewish community, Ariel Muzicant, and a prominent Jewish-American campaign

advisor to the Vienna local elections in March 2001. Although Haider repeatedly followed such statements with expressions of regret, his statements contribute to the widespread belief that he and some extreme elements of the FPÖ have helped foster a climate of intolerance in the country. Muzicant has filed several lawsuits against Haider for slander as a result of the comments. In January Muzicant and Haider settled their legal disputes with a joint declaration that includes five "statements of respect," and stipulates that Haider withdraw his slanderous remarks. On April 3, the Jewish and Islamic communities released a joint statement calling for an end to the violence in the Middle East. The declaration voiced concern for the recent spread of violence between Jews and Muslims in Europe. The statement was organized by government officials and viewed as a symbol of the tolerance and history of cooperation between Jews and Muslims in the country.

There was widespread societal mistrust and discrimination against members of some nonrecognized religious groups, particularly those considered to be sects. A large portion of the public perceives such groups as exploiting vulnerable persons for monetary gain, recruiting and brainwashing youth, promoting antidemocratic ideologies, and denying the legitimacy of government authority. Societal discrimination against sects was, at least in part, fostered by the Government's policy of selective recognition. Muslims complained about societal discrimination such as verbal abuse and hostile treatment.

Sensitivity to members of the Church of Scientology and fears of infiltration remained high. Individual Scientologists were subjected to discrimination in hiring during the year. Scientology leaders complained that the church's bank account was closed without cause and that they did not receive permission to set up an informational tent in downtown Vienna.

One Jewish cemetery was desecrated during the year. The incident occurred in Lower Austria and caused approximately \$3,000 (3,000 euros) in damage. Police did not identify any suspects. In addition, in December the Muslim section of the city cemetery in Traun was vandalized. Approximately 40 gravestones were broken, torn out, or destroyed. At year's end, there were no suspects.

The ÖVP's position that party membership is incompatible with membership in a sect remained in force at year's end.

For a more detailed discussion see the 2002 International Religious Freedom Report.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

The ÖVP/FPÖ coalition reached an agreement in August 2001 on immigration quotas and a new system of immigrant integration. Beginning in January, annual immigration quotas were set at approximately 8,000 persons per year, although there was a shift in the distribution among the categories. In July Parliament adopted an immigration reform proposal that would harmonize residence and employment provisions and require permanent legal residents to take German language and civics courses for the purpose of integration; it is scheduled to take effect in January 2003. Those immigrants who fail to complete the courses by various deadlines would face financial penalties and deportation or expulsion. The law would limit employment-based immigration categories to key qualified employees and low-skilled workers and expand the definition of temporary seasonal worker to include industries beyond agriculture and tourism. In 2001 the number of illegal aliens intercepted at national borders was 48,659, a 6.4 percent increase over the previous year, attributed almost exclusively to the number of trafficked aliens from Afghanistan (7,665) (see Section 6.f.).

The law includes provisions for granting of refugee and asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government subscribes to the safe third-country concept, which requires asylum seekers who enter illegally to depart and seek refugee status from outside the country. In response to continuing criticism by the Office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations, in 1997 the Government passed an amendment to the 1991 asylum law designed to bring some improvements to the safe country rule and the appellate procedure. The Government cooperated with the UNHCR and other humanitarian organizations in assisting refugees. The UNHCR and other humanitarian organizations generally approved of the 1997 asylum law, but there was still some dissatisfaction with its implementation. There was widespread opposition to the third country concept based on the fear that it compromised the principle of individual investigation of claims. This principle has been upheld in various rulings of the administrative court. In July Parliament adopted an amendment to the 1997 Asylum law, which would make the European Union (EU) fingerprint database EURODAC operational in 2003.

In principle asylum applicants are entitled to federal assistance for food, shelter, and medical care (provided that a person's identity can be determined). However, the Federal Care Provisions Act specifically states that there is no corresponding legal right for applicants. The result was that asylum applicants denied assistance have no legal recourse.

In the past, the Government effectively granted assistance to only one-third of all asylum applicants who faced financial hardship. However, in a controversial decree that took effect on October 1, the Interior Ministry prohibited members of certain nationalities from state shelters while their asylum claims were being adjudicated. In October asylum seekers conducted hunger strikes and sit-down protests in a refugee camp to protest the rules. Exceptions included Kosovo Serbs, Chechens, Iraqis, Afghans, and Turkish Kurds, who are allowed a longer stay in the state housing complexes. Human rights groups and some political parties in the country criticized the rule, alleging that it would result in homelessness and would make fair hearings impossible. Some human rights groups, such as Caritas, announced that they would accommodate refugees turned away by the Government. The Government contracted with a private German agency, European Homecare, to provide counseling to unsuccessful asylum applicants, encouraging them to return to their country of origin. Persons found to be refugees were not returned to the countries from which they fled. Asylum seekers whose claims have been rejected by the Federal Asylum Office were allowed to appeal to the independent Federal Asylum Senate, then to the Administrative Court. Asylum seekers whose claims have been rejected also had recourse to the Constitutional Court in cases in which they allege a breach of the European Convention on Human Rights and Individual Freedoms.

During the Kosovo crisis, the country accepted an estimated 10,000 to 15,000 refugees. A total of 5,080 Kosovar Albanians were evacuated directly from Macedonia and admitted to Austria under cover of temporary protective status (TPS). The immigration law was modified to allow Kosovar Albanians already in the country in a variety of statuses to extend their stay. A program of assistance for Kosovar refugees, which began in April 1999, ended in July 2000. At that time, the Government decided to secure further residence rights for the approximately 1,200 Kosovar Albanians that remained in the country in a variety of statuses. In addition, residence rights were extended to those needing protection, immediate relatives of guest workers who had benefited from the original assistance program under either TPS or asylum, and Kosovars who had stayed in the country until July 2000 under either TPS or asylum--provided that one immediate family member was integrated into the labor market. According to 2001 statistics, a total of 1,934 Kosovo-Albanians in the country had applied for humanitarian residence status temporarily until new immigration quotas become available.

During the first half of the year, there were 17,084 asylum applications, compared with 14,995 received in the same period in 2001. This number includes the 5,622 applications that embassies abroad received with approximately 5,000 of these applications filed by citizens from Afghanistan. Asylum applications had increased sharply in 2001 to a total of 30,135, compared with 18,284 in 2000. In 2001 authorities approved 1,152 applications and denied 3,840 requests; government statistics show 1,002 approvals and 4,787 denials in 2000. The official approval rate for 2001 was 23.1 percent (20.2 percent including nonrefoulement decisions), compared with 17.3 percent (20 percent) in 2000. In 2001 the largest groups of applicants ranked by nationality were persons from Afghanistan (1,952), Iraq (851), Armenia (746), Georgia (655), and Turkey (631).

As a result of hostilities in Afghanistan, between January 2001 and July 2002, the Government received a total of 16,648 asylum applications by Afghan citizens, including 6,794 applications filed at diplomatic missions abroad (mostly in Pakistan and Iran). According to government statistics, some 1,800 applications were pending (mostly on appeal) at year's end. While almost all asylum claims are expected to be denied on the basis of the safe country rule, TPS is being granted at least until March 2003, when a reassessment of the situation is scheduled to determine the possibilities of repatriation. The influx of Afghan refugees resulted in a considerable burden on the government's care and maintenance system. As of September, approximately 1,300 Afghan asylum seekers out of a total of some 6,000 applicants from 35 nations were receiving government care until a final determination of their claims.

In May 1999, an unsuccessful Nigerian asylum applicant, Marcus Omofuma, died after being physically restrained for violent behavior while being deported to Lagos, Nigeria via Sofia, Bulgaria (see Section 1.a.). The incident prompted a complete review of internal procedures regarding deportations. Two of the three police officers who accompanied Omofuma were suspended; however, the suspension was lifted in February 2001. Authorities ruled that the three policemen on duty at the time should be tried for abuse of a prisoner; as a result of their trial, the three police officers were given suspended 8-month sentences for negligence in the death of a person under dangerous circumstances. In 1999 the Interior Ministry created the Human Rights Advisory Council, composed of representatives from the Justice and Interior Ministries, as well as NGOs, to ensure that the police and gendarmerie respect human rights while carrying out their duties. In addition, the Ministry announced a new policy requiring that all potentially violent individuals be deported on chartered aircraft, rather than on commercial flights. In March 2001, the Constitutional Court ruled against the Administrative Arbitration Board for rejecting civil charges, filed on behalf of Omofuma's daughter, that stated that Omofuma's human rights were violated, and

returned the case to the Administrative Board for review. The case was still pending at year's end.

In June the Human Rights Advisory Council criticized the July amendment to the 1997 asylum law because it did not sufficiently address their recommendations about the conditions of deportation detention, since deportation of minors had not been ruled out. In September more than 40 unsuccessful Kosovar Albanian asylum applicants were repatriated. The U.N. and NGOs criticized the Government's actions.

There were no reports of the forced return of persons to a country where they feared persecution.

### Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. National elections were held in November in which the OVP won 79 seats in Parliament, the Social Democrats (SPO), 69, the FPÖ, 18, and the Green Party, 17. At year's end, the parties were negotiating on forming a Government. There were 63 women in the 183-seat National Assembly and 13 in the 62-member Federal Assembly.

### Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. In some cases, they were dissatisfied with the information that the authorities supplied in response to specific complaints. There were no reports of discrimination against organizations that report on human rights.

### Section 5. Discrimination Based on Race, Sex, Disability, Language, or Social Status

The law provides for protection against any of these types of discrimination in employment, provision of welfare benefits, and other matters, and the Government generally enforced these provisions effectively.

#### Women

Violence against women remained a problem. There are no accurate statistics available on the number of women abused annually, but it was believed to be a widespread problem. Police and judges enforced laws against violence; however, it was estimated that less than 10 percent of abused women filed complaints. The Association of Houses for Battered Women has estimated that one-fifth of the country's 1.5 million adult women has suffered from violence in a relationship. In 1999 legislators passed an amendment to the 1997 Law on the Protection Against Violence in the Family, extending the period during which police can expel abusive family members from family homes. In 2001 an injunction to prevent abusive family members from returning home was applied in 3,283 cases. The Government also sponsored shelters and help lines for women.

Trafficking in women was a problem (see Section 6.f.). While prostitution is legal, trafficking for the purposes of prostitution is illegal.

Of the 1,264 new cases brought to the Ombudsmen for Equal Opportunity in 2001, 185 were complaints of sexual harassment. The Federal Equality Commission, as well as the Labor Court, can order employers to compensate victims of sexual harassment. Sexual harassment is prohibited by law, and the Government effectively enforced those laws.

The Government's 2000 coalition agreement contained a detailed section advocating equal rights and opportunities for women. Most legal restrictions on women's rights have been abolished. A Federal Equality Commission and a Federal Commissioner for Equal Treatment oversee laws prescribing equal treatment of men and women. Herbert Haupt remained the minister responsible for the women's portfolio under the provisional government.

In 1994 the European Court of Justice (ECJ) ruled that the country's law prohibiting women from working at night was not in conformity to the EU-legal framework. The ECJ gave the Government until the end of 2001 to adapt its legislation to gender-neutral EU regulations. In January 1998, legislation went into effect that required collective bargaining units to take action by the end of 2001 to eliminate restrictions on nighttime work for women, and in December 2001 the legislation banning nighttime work for women expired. Legislation in conformity with the EU legal framework went into effect in January.

An estimated 68 percent of women between the ages of 15 and 60 were employed; on average, women earned only 74 percent of what men earn for the same work. Women were more likely than men to hold temporary positions and also are disproportionately represented among those unemployed for extended periods of time. In 2000 the U.N. Committee on Elimination of Discrimination Against Women released a report criticizing the Government's treatment of women, including its decision in 2000 to abolish the Federal Women's Affairs Ministry and fold its portfolio into the Ministry of Social Affairs and Generations. The Committee was particularly concerned about immigrant women's access to employment.

Although labor laws provide for equal treatment for women in the civil service, women remain underrepresented. To remedy this circumstance, the law requires hiring women of equivalent qualifications ahead of men in all civil service areas in which less than 40 percent of the employees are women, including police; however, there are no penalties for failing to attain the 40 percent target.

Female employees in the private sector can invoke equality laws prohibiting discrimination of women; the Federal Equality Commission may award compensation of up to 4 months' salary if women are discriminated against in promotions because of their sex. The Commission also may order legal recompense for women who are denied a post despite having equal qualifications.

Women are allowed to serve in the military forces voluntarily. At year's end, there were a total of 198 women--of a standing force of approximately 51,000--serving in the military forces, including 7 officers. There were no restrictions on the type or location of assignments of women.

Women's rights organizations were partly politically affiliated, and partly autonomous groups. They usually received wide public attention when voicing their concerns. Despite fears of women's rights groups, the Government continued to provide government subsidies to these groups.

#### Children

The law provides for the protection of children's rights. Each provincial government and the federal Ministry for Youth and Family Affairs has an "Ombudsperson for Children and Adolescents" whose main function was to resolve complaints about violations of children's rights.

While 9 years of education were mandatory for all children beginning at age 6, the Government also provided free education through secondary school and subsidized technical, vocational, or university education. The majority of school age children attended school. Educational opportunity was equal for girls and boys. Comprehensive, government-financed medical care was available for all children without regard to gender.

There was no societal pattern of abuse against children, although heightened awareness of child abuse has led the Government to continue its efforts to monitor the issue and prosecute offenders. The growing number of reported incidences of child abuse was considered a result of increased public awareness of the problem. Doctors were required to report to the police suspected cases of child abuse and molestation. An exception may be made if the suspected abuser is a close relative of the victim, where doctors may refrain from reporting to the police for the sake of the well-being of the minor. However, in such cases, the victim's representative must establish contact with a youth care officer or a hospital's child protection unit.

According to the Penal Code, sexual intercourse between an adult and a child (under 14 years of age) is punishable with a prison sentence of up to 10 years; in case of pregnancy of the victim, the sentence can be extended to up to 15 years. In June the Constitutional Court struck down Article 209 of the criminal code, in which sexual relations between a male between the ages of 14 and 18 and an adult male is punishable with sentences ranging from 6 months to 5 years. The court gave the Government until February 28, 2003, to rewrite the law. In 2001 the Ministry of Justice reported 856 cases of child abuse, most involving intercourse with a minor. Of these cases, 228 resulted in convictions. Under the law, any citizen engaging in child pornography in a foreign country becomes punishable under Austrian law even if the actions are not punishable in the country where this violation was committed. The law also entails severe provisions for the possession, trading, and private viewing of pornographic materials. For example, exchanging pornographic videos is illegal even if done privately rather than as a business transaction. In April the Government conducted its largest raid to date on the premises of suspected consumers of child pornography. The police searched 329 houses and confiscated a large amount of material. The Federal Crime Authority also established a special department for cyber crime.

#### Persons with Disabilities



The law protects persons with disabilities from discrimination in housing, education, and employment. A 1997 amendment to the law explicitly requires the State to provide for equal rights for the disabled "in all areas of everyday life." The law requires all private enterprises and state and federal government offices to employ one person with disabilities for every 25 to 40 employees, depending on the type of work. Employers who do not meet this requirement must pay a fee to the Government, and the proceeds help finance services for the disabled such as training programs, wage subsidies, and workplace adaptations. However, the law has received some criticism because many observers believe that penalties were too low to discourage companies from bypassing the requirement. There were no reports of societal discrimination against persons with disabilities. The Government budgeted \$69 million (69.04 million euros) for the year to fund projects that employed persons with disabilities.

The Government estimated that there were approximately 72,000 persons having a degree of disability of 50 percent or more. Federal law mandates access for persons with physical disabilities; however, low fines and insufficient enforcement resulted in the inaccessibility of many public buildings to persons with disabilities.

The law prohibits the sterilization of minors. Persons 18 years of age and older may be sterilized only in life-threatening instances.

#### National/Racial/Ethnic Minorities

The law recognizes six national minority groups: Croats, Czechs, Hungarians, Roma, Slovaks, and Slovenes. In the past, any community where at least 25 percent of the population belonged to one of these groups was entitled to bilingual town signs, education, media, and access to federal funds earmarked for national minorities. In December 2001, the Constitutional Court ruled that the standard should be lowered; the Court cited international and historical precedent in its reasoning. The Government responded to the ruling by stating that it would submit implementing legislation to Parliament. After the Governor of Carinthia, Joerg Haider, announced that he would not honor the Court's decision and alleged that the President of the Constitutional Court was influenced unfairly by Slovene groups and stating that the court had exceeded its authority by setting a limit, the Government hosted several conferences on the problem in an attempt to come to a national consensus. At year's end, there was no decision on implementation of the court's finding. Bilingual town signs existed in other provinces as well.

The largest problem facing these national minority groups is the preservation of their culture and language. In addition, most human rights groups claimed that Roma faced particular discrimination in employment and housing. Members of other minority groups such as Turks and Indians were not considered national indigenous minorities and do not have access to the same type of assistance. NGOs complained that Africans living in the country were stopped by police as many as 5 times per day.

Statistics for 2001 showed a similar number of neo-Nazi, rightwing extremist, and xenophobic incidents as the previous year. During 2001 the Interior Ministry recorded 335 incidents; in 2000 there were 336 incidents. During the year, the Government continued to express concern over the activities of extreme-right skinhead and neo-Nazi groups, many with links to organizations in other countries. In August the police seized a sizable cache of weapons, explosives, and hand grenades in Vienna, Styria, and Lower Austria that belonged to neo-Nazi groups. The police arrested 3 persons, including one with ties to an illegal group called the Extra-parliamentary Opposition Loyal to the People. Some members of the group had membership cards for the Ku Klux Klan and possessed scenarios for a civil war in the country. Police estimated that a new neo-Nazi group had formed, although its exact size was undetermined.

In March the domestic NGO ZARA, in conjunction with other groups, released a report entitled "Racism 2001", which found that persons from diverse ethnic and racial backgrounds continued to face widespread discrimination from government officials, particularly the police, as well as in the workplace and in housing. The report cited 155 examples of discrimination faced by immigrants on a daily basis and called for the strengthening of public education and legal protections for immigrants.

The Government continued its training program designed to combat racism and educate the police in cultural sensitivity. In 2000 the Government passed a comprehensive prominority rights bill providing expanded constitutional protections for the country's six officially recognized minorities.

#### Section 6 Worker Rights

##### a. The Right of Association

Workers have the right to form and join unions without prior authorization, under general constitutional provisions

regarding freedom of association. In practice trade unions had an important and independent voice in the political, social, and economic life of the country. An estimated 50 percent of the work force were organized into 13 national unions belonging to the Austrian Trade Union Federation (OGB), which had a highly centralized leadership structure. Association of national unions with the OGB was voluntary. Individual unions and the OGB were independent of government or political party control, although formal factions within these organizations were allied closely with political parties.

In cases of disputed terminations, the law obliges employers of enterprises with more than five employees to prove to a labor court that job dismissals are not motivated by antiunion discrimination. Employers found guilty of this offense are required to reinstate workers. Labor and business representatives remain in a longstanding disagreement over how to provide legal protection to employees against arbitrary dismissals in firms with five employees or fewer.

#### b. The Right to Organize and Bargain Collectively

Unions have the right to organize and bargain collectively. Almost all large companies, private or state-owned, were organized. Worker councils operate at the enterprise level, and by law workers are entitled to elect one-third of the members of the supervisory boards of major companies. Collective agreements covering wages, benefits, and working conditions are negotiated for each industry by the OGB with the National Chamber of Commerce and its associations, which represented the employers.

The right to strike is not provided explicitly in the Constitution or in national legislation; however, it was recognized universally in practice. Historically strikes have been comparatively few and usually of short duration. A major reason for the record of labor peace is the unofficial system of "social partnership" among labor, management, and government. At the center of the system is the Joint Parity Commission for Wages and Prices, which has an important voice on major economic questions.

The law prohibits retaliations against strikers, and the Government effectively enforces the law. In general legal disputes between employers and employees regarding job-related matters are handled by a special arbitration court for social affairs, which is part of the judicial system. Unions have access to the arbitration court.

The OGB is exclusively responsible for collective bargaining. The leaderships of the Chamber of Labor, the Chamber of Commerce, and the OGB are elected democratically.

There were no export processing zones.

#### c. Prohibition of Forced or Bonded Labor

The law prohibits forced or bonded labor, including by children, and there were no reports that such practices occurred.

In 2000 former forced laborers filed suit against Austrian companies that used forced labor provided by the Nazi government of the 1930s and 1940s. In 2000 an agreement was signed between the Government, attorneys representing former forced and slave laborers, and representatives of foreign governments, providing compensation for former forced and slave laborers. By July approximately \$182 million (231 million euros) had been provided as compensation to 91,281 former forced and slave laborers.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The minimum legal working age is 15 years. The Labor Inspectorate of the Ministry of Social Affairs effectively enforced this law. The Government has adopted laws and policies to protect children from exploitation in the work place.

#### e. Acceptable Conditions of Work

There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements set minimum wages by job classification for each industry. The accepted unofficial minimum wage is \$9,945 (10,174 euros) a year, and it provided a decent standard of living for a worker and family. Every worker was entitled to a variety of generous social benefits.

Although the legal workweek was 40 hours, more than 50 percent of the labor force was covered by collective bargaining agreements that set the workweek at 38 or 38½ hours.

Laws regularly enforced by the Labor Inspectorate of the Ministry of Social Affairs provide for mandatory occupational health and safety standards. Workers may file complaints anonymously with the Labor Inspectorate, which may bring suit against the employer on behalf of the employee. However, this option rarely is exercised; workers normally rely instead on the Chambers of Labor, which file suits on their behalf. The Labor Code provides that workers have the right to remove themselves from a job if they fear "serious, immediate danger to life and health" without incurring any prejudice to their job or career, and the Government effectively enforces this law.

#### f. Trafficking in Persons

There is no single law covering all forms of trafficking in persons; however, Article 217 of the Criminal Code, which describes trafficking for prostitution, is the key provision for the prosecution of traffickers. Article 103 of the Criminal Code also deals with trafficking for the purposes of slavery. Article 103 of the Aliens Act contains criminal law provisions on alien smuggling. Trafficking in women for prostitution and domestic service was a problem.

The Interior Ministry works at the national and international level to raise awareness of human trafficking. In January the Ministry created a new body, the Federal Crime Authority, which has a division solely dedicated to combating human trafficking and alien smuggling. Federal police units addressing organized crime and sex crimes also focused on this problem. Although prostitution is legal, trafficking for the purpose of prostitution is illegal, and can result in jail sentences of up to 10 years for convicted traffickers. Article 217 refers to recruiting aliens for prostitution and covers trafficking for prostitution through the deception of someone regarding the purpose of their journey to the country or through coercion or use of force. In 2000 the Government passed legislation implementing stronger penalties for alien smuggling including trafficking. Trafficking for purposes of slavery can lead to a prison sentence of from 10 to 20 years. The maximum penalty for the most serious offenses increased from 5 to 10 years' imprisonment. In 2000 the Interior Ministry, which is the primary government agency involved in antitrafficking efforts, reported that 125 complaints were filed under the law against trafficking for prostitution, of which 10 resulted in convictions. The Ministry of Interior estimated that most traffickers taken into custody are prosecuted under criminal law provisions on alien smuggling.

In October 2001 in a high-profile case, the Government convicted the Carinthian "Porno King", Hellmuth Suessenbacher, and 10 others for trafficking in persons and other related offenses. Charges resulted from the trafficking of 50 Romanian women who initially were hired as dancers and subsequently forced into prostitution. Suessenbacher was sentenced to 2½ years' imprisonment, a relatively light sentence by national norms. The other defendants received sentences ranging from fines to up to 4 years' imprisonment. Suessenbacher appealed the sentence. In September the Linz Court of Appeal reduced his sentence to 2 years' imprisonment and that of his coconspirators to a period of from 9-months suspended sentences to 4 years' imprisonment.

Some NGOs have called for an expansion of the legal definition of trafficking to include exploitation for domestic labor and coerced marriages.

In March 2001, in response to a marked increase of illegal border crossings at Austria's eastern borders in the first half of that year, the Government set up a special task force to address trafficking. However, many victims of trafficking continued to migrate legally.

Austria was a transit and final destination country for women trafficked from Bulgaria, Romania, Ukraine, the Czech Republic, Slovakia, Hungary, and the Balkans; the women were trafficked into Austria and other western European countries, primarily for the purpose of sexual exploitation. Women also were trafficked from Asia and Latin America to Austria for domestic labor.

There are no accurate statistics on trafficked persons specifically; however, the number of intercepted illegal immigrants, of whom some were trafficking victims, continued to increase. In 2001 LEFOE, an NGO established in 1985 to help victims of trafficking, reported that it assisted 183 victims of trafficking. Police estimated that one-fourth of trafficking in women in the country is controlled by organized crime. The country is particularly attractive to traffickers due to its geographic location and to the fact that citizens of the Czech Republic, Slovakia, Hungary, Romania, and Bulgaria do not require visas to enter the country. Most trafficked women were brought to Austria with promises of unskilled jobs such as nannies or waitresses. Upon arrival they were coerced or forced into prostitution. There also were cases of women who knowingly went to Austria explicitly to work as prostitutes but who then, according to police, were forced into states of dependency akin to slavery. Most victims were in the

country illegally and feared being turned into authorities and deported. Traffickers usually retained victims' official documents, including passports, to maintain control over the victims. Victims of trafficking reported being subjected to threats and physical violence. A major deterrent to victim cooperation is widespread fear of retribution, both in Austria and in the victims' countries of origin.

The majority of traffickers arrested by police were citizens; however, the number of foreigners engaged in trafficking has increased over the years. Police estimated that a large portion of trafficking is controlled by organized crime, primarily from Eastern Europe.

The Government provides temporary residence to victims of trafficking who are prepared to testify or intend to raise civil law claims; however, victims still rarely agreed to testify, due to fear of retribution. The temporary residency status allowed victims to stay in the country only during a trial; no provisions were made for them to stay in the country following their testimony. Virtually all victims of trafficking were repatriated.

The NGO LEFOE provided secure housing and other support for victims of trafficking. The International Organization for Migration (IOM) sought to put victims in contact with NGOs in their countries of origin upon their return. With financial assistance from the Interior Ministry, LEFOE also continued to operate the Intervention Center for victims of the trade in women (IBF) in Vienna, which provides services to trafficked women including: Psychological, legal, and health-related counseling and assistance, emergency housing and German language courses. There also were similar centers located in other cities in the country that were financed by federal and local governments.

Government-funded research on the problem of trafficking and NGO prevention work included antitrafficking brochures, law enforcement workshops, and international conferences on the issue, funded by private and public sources. The Government also provided funding for intervention centers that provide emergency housing and psychological, legal, and health-related assistance to victims. There was one NGO center that provided comprehensive counseling, educational services, and emergency housing to victims of trafficking. The Government also was active in U.N. and Organization of Security and Cooperation in Europe international efforts to combat trafficking. During the year, Austrian experts often were involved in regional training and capacity building programs sponsored by the Stability Pact Antitrafficking Task Force.